

AUG 13 2021

REPRESENTATIVE SPENCER GOSCH, CHAIR | SENATOR LEE SCHOENBECK, VICE CHAIR  
REED HOLWEGNER, DIRECTOR | SUE CICHOS, DEPUTY DIRECTOR | JUSTIN GOETZ, CODE COUNSEL  
500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



July 26, 2021

RECEIVED  
SEP 17 2021  
S.D. SEC. OF STATE

Mr. Brendan Johnson  
Robins Kaplan LLP  
140 N. Phillips Ave., Ste. 307  
Sioux Falls, SD 57104

**Re: LRC Review of Proposed Change to S.D. Const. Art. XXIII, § 1**

Dear Mr. Johnson:

In accordance with SDCL 12-13-24 and 12-13-25, the Legislative Research Council (LRC) is required to review each initiated constitutional proposal submitted to it by a sponsor for the purpose of determining whether the proposal is "written in a clear and coherent manner in the style and form of other legislation" and for the purpose of ensuring that the "effect of the [proposal] is not misleading or likely to cause confusion among voters." Based on this review, the LRC provides written comments to the proposal's sponsor for the purpose of assisting the sponsor in meeting these requirements. This includes providing "assistance . . . to minimize any conflict with existing law and to ensure the [proposal]'s . . . effective administration." While there is no obligation to accept any of the suggestions contained in this letter, you are asked to keep in mind the legal standards established in SDCL 12-13-24 and 12-13-25.

After reviewing the proposed strikes to S.D. Const. Art. XXIII, § 1, that you submitted via e-mail on July 6, 2021, the LRC has two minor style recommendations enclosed with this letter. These recommendations are depicted strikethroughs and underlines, and are based upon the Guide to Legislative Drafting (<https://mylrc.sdlegislature.gov/api/Documents/127102.pdf>). Should you have any questions about these changes, or about the suggestions made in this letter, please feel free to contact this office.

#### **Single Subject**

Pursuant to SDCL 12-13-25, I am to provide a written opinion "as to whether the initiated amendment embraces only one subject under S.D. Const., Art. XXIII, § 1" and whether the proposed change to the constitution is indeed an "amendment under S.D. Const., Art. XXIII, § 1," or if it is rather a "revision under S.D. Const., Art. XXIII, § 2." The plain language of SDCL 12-13-25 indicates that this opinion has no legal effect. Moreover, the South Dakota Supreme Court has yet to construe the single subject requirement specific to Article XXIII, Section 1, or the distinction between an amendment or revision pursuant to Article XXIII, Sections 1 and 2. With this background, it is my opinion that this proposed constitutional change is an amendment that embraces one subject.

Mr. Johnson  
July 26, 2021  
Page 2

Finally, this letter constitutes neither an endorsement of the proposal nor a guarantee of its sufficiency. It is a recognition that your responsibility to submit the draft proposal to the LRC for review and comment, as required by SDCL 12-13-25, has been fulfilled. If you proceed with this proposal, please ensure neither your statements nor any advertising imply that this office has endorsed or approved the proposal.

Sincerely,



Reed Holwegner  
Director

RH/jg/bh

Enclosure

CC: The Honorable Steve Barnett, Secretary of State  
✓ The Honorable Jason Ravnsborg, Attorney General

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article XXIII, ~~section~~ § 1 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 1. Amendments to this Constitution may be proposed by initiative or by a majority vote of all members of each house of the Legislature. An amendment proposed by initiative shall require a petition signed by qualified voters equal in number to at least ten percent of the total votes cast for Governor in the last gubernatorial election. The petition containing the text of the proposed amendment and the names and addresses of its sponsors shall be filed at least one year before the next general election at which the proposed amendment is submitted to the voters. A proposed amendment may amend one or more articles as necessary to accomplish the objectives of the amendment.